

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAFAEL SANDOVAL,

Defendant.

NO. CR-12-2085-LRS-1

**ORDER DENYING MOTION
TO REDUCE SENTENCE**

BEFORE THE COURT is the Defendant's "Motion For Downward [Departure] Pursuant To 18 U.S.C.A. § 3553(a)," (ECF No. 100), which this court construes as a Motion To Reduce Sentence. On April 21, 2015, this court entered an order denying Defendant's motion to reduce his sentence pursuant to 18 U.S.C. §3582(c)(2) and Amendment 782 to the United States Sentencing Guidelines. (ECF No. 99). This court found that Defendant was not eligible for relief pursuant to Amendment 782 and that even if he were, a reduction of his sentence below the 92 months previously imposed was not warranted.¹

Other than 18 U.S.C. §3582(c)(2), which authorizes the reduction of a

¹ It bears noting that the most this court could have reduced Defendant's sentence was 87 months, the low end of the amended guideline range, again assuming Defendant was eligible for relief in the first instance. U.S.S.G. §1B1.10(b)(2)(A).

1 term of imprisonment where an individual has been sentenced based on a
2 sentencing range that has been subsequently lowered by the U.S. Sentencing
3 Commission, the only avenues for a court to modify a term of imprisonment that
4 has been imposed are upon motion by the Director of the Bureau of Prisons, 18
5 U.S.C. § 3582(c)(1)(A), or as expressly permitted by statute or by Fed. R. Crim.
6 P. 35, 18 U.S.C. § 3582(c)(1)(B). 18 U.S.C. § 3553(a) does not permit the court
7 to modify a term of imprisonment previously imposed and the court is unaware
8 of any other statute that would permit such with regard to this Defendant and his
9 particular circumstances. Rule 35, by its terms, does not apply because more
10 than 14 days have passed since sentencing, the sentence imposed upon
11 Defendant did not result “from arithmetical, technical, or other clear error,” and
12 the Government has not filed a motion seeking to reduce the sentence because
13 of Defendant’s “substantial assistance.”

14 Accordingly, because there is no basis upon which this court is authorized
15 to modify Defendant’s term of imprisonment, his “Motion For Downward
16 [Departure] Pursuant To 18 U.S.C.A. § 3553(a),” (ECF No. 100), is **DENIED**.

17 **IT IS SO ORDERED.** The District Court Executive is directed to enter
18 this order and provide copies to Defendant and to all counsel of record.

19 **DATED** this 7th day of May, 2015.

20 *s/Lonny R. Suko*

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LONNY R. SUKO
22 Senior United States District Judge
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27 **ORDER DENYING MOTION**
28 **TO REDUCE SENTENCE-**